# **National Park Service**

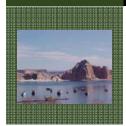


# National Park Service Concession Program

Commercial Use Authorizations

Concession Management Advisory Board Briefing Update – March 22, 2006





#### **OVERVIEW**



 Review Legislative Requirements from PL 105-391



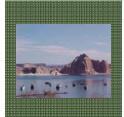
Discuss Recent and current efforts



Review Interim Guidelines

Next Steps











# **Authority for Commercial Use Authorization**

- Concession Management Improvement Act of 1998, Section 418 provides the authority for the Secretary to issue Commercial Use Authorizations (CUA) to provide services to visitors
- New authority for CUA replaces the IBP program authorized under Special Directive 95-10











## Sec. 418 - Legislated Provisions

- ABILITY TO LIMIT
  - "The number issued must be consistent with proper management of resources and values and provide appropriate services and protection for visitors"
- Non-profit institutions are not required to obtain a CUA unless taxable income is derived from the activity
- Will not be considered concession contracts
- No construction may be authorized











#### Sec. 418 Legislated Provisions cont'd.

- Term two years or less
- No preferential right of renewal or similar provisions (except as otherwise provided by ANILCA – specific to Alaska)
- Payment of a reasonable fee to recover associated costs
- Services must be accomplished in a manner that preserves and conserves park resources and values
- Liability of United States must be limited





#### **Recent Activity**



 Fall 2005 - At the request of parks and regions, NPSCP developed guidance to implement legislated requirements



 December 2005 – Issued Interim Guidelines to Regions implement CUA authority very generally and with oversight to insure consistency in use of authority



 Staff is now refocused on Issuance of new Draft Proposed Rule











### **Current Activity**

- March 2006 Responding to issues raised by the issuance of the Interim Guidelines
- Finalizing the new Draft Proposed Rule for workgroup and NPS review.
  - The drafted proposed rule will be reviewed by NPS Policy, DOI, OMB, among others.
- FUTURE Work will begin to draft Director's Order and a reference manual.









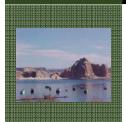


#### INTERIM GUIDELINES OVERVIEW

# **BROADLY AND GENERALLY IMPLEMENTS THE LEGISLATED PROVISIONS of Section 418, 105-391**

- Allows NPS officials to issue CUAs under criteria established in law:
  - Issued to "Qualified person" for "the provision of suitable commercial services to visitors"
  - Commercial services will have minimal impact on resources and values
  - Consistent with park area purposes, plans, regulations, and policies











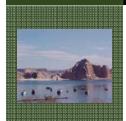
#### INTERIM GUIDELINES OVERVIEW

- Implements authority to issue ADDITIONAL TYPE - In-Park CUA where gross receipts are less than \$25,000
- Requires Superintendents to:
  - Not issue more permits than are consistent with the preservation and proper management of park resources and values

#### WHEN LIMITED:

- Must consult with regional staff prior to establishing a limited number of permits or establish visitor use limits under a permit
- Must issue through a competitive process to the most qualified in accordance with criteria established









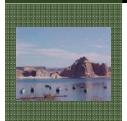


#### **NEW DRAFT PROPOSED RULE**

# Changes and clarifications from previous published rule:

- Limitations for number of authorizations issued:
  - Limiting the number of authorizations will be addressed through existing regulation and policy (i.e. DO-2 and DO-12 Planning and Compliance)
  - In the absence of a plan, civic engagement and public comment will be sought prior to limitations being imposed.











# Changes and clarifications from previous published rule

Commercial tour operators:

Will be administered through the CUA program. The original draft rule excluded them from the program.

Working with the Fee Program Manager on these issues

- Random Selection:
  - Replaced with a process based on experience, performance criteria, and qualifications











# Changes and clarifications from previous published rule

- Definitions replaced:
  - The authorization will be called, Commercial Use Authorization
    - Within the above authority, incidental commercial use and in-park commercial uses may be authorized.
  - Qualified person was expanded on to include "a person that the Director determines has the experience and training to satisfactorily carry out the terms of the authorization.
  - "Commercial Bus Tour Permits" was replaced with "Commercial Tour"





#### Other concerns addressed in new draft



Encourages simplified fee structure and efficiencies



 AUTHORIZATION FOR NON-PROFIT where taxable income is not derived from activity



- Legislation prohibits use of Commercial Use Authorization for these organizations
- Rule and 36 CFR 5.3 requires other written authorization is required to provide the operators with the terms, conditions, and requirements –











#### **NEXT STEPS**

- Finalizing the new Draft Proposed Rule for workgroup and NPS review.
  - The drafted proposed rule will be reviewed by NPS Policy, DOI, OMB, among others.
- Publish New Draft Proposed Rule for public comment
- May reconvene working group to address these comments
- FUTURE Work will begin to draft Director's Order 48B and a reference manual for further implementation
- Develop Training for parks